

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION**

**April 7, 2019**

**TO:** Honorable Chris Paddie, Chair, House Committee on Energy Resources

**FROM:** John McGeady, Assistant Director    Sarah Keyton, Assistant Director  
 Legislative Budget Board

**IN RE: HB509** by Wilson (Relating to the regulation of aggregate production operations by the Railroad Commission of Texas; authorizing a fee; providing administrative penalties and other civil remedies; creating criminal offenses.), **As Introduced**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB509, As Introduced: a negative impact of (\$3,578,554) through the biennium ending August 31, 2021.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

**General Revenue-Related Funds, Five-Year Impact:**

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2020	(\$2,350,334)
2021	(\$1,228,220)
2022	(\$1,234,820)
2023	(\$1,241,585)
2024	(\$1,248,515)

**All Funds, Five-Year Impact:**

Fiscal Year	Probable (Cost) from <i>General Revenue Fund</i> 1	Probable Revenue Gain from <i>General Revenue Fund</i> 1	Change in Number of State Employees from FY 2019
2020	(\$3,450,334)	\$1,100,000	33.0
2021	(\$2,328,220)	\$1,100,000	33.0
2022	(\$2,334,820)	\$1,100,000	33.0
2023	(\$2,341,585)	\$1,100,000	33.0
2024	(\$2,348,515)	\$1,100,000	33.0

## **Fiscal Analysis**

The bill would amend the Natural Resources Code to authorize the Railroad Commission to issue rules and regulations regarding extraction operations at aggregate production operation sites. The Railroad Commission would issue permits, conduct inspections, ensure compliance, conduct hearings, and issue orders and civil or administrative penalties for the regulation of aggregate production operations.

## **Methodology**

Based on analysis of the Railroad Commission, the fiscal impact to the agency under the provisions of the bill would be \$5,778,553 for the 2020-21 biennium, and a five year impact of \$12,803,472 in General Revenue. Costs include salaries for 33.0 FTEs, other operating costs, travel, capital equipment (i.e. vehicles), consumable supplies (i.e. publications and postage), professional services (i.e. technology), and benefits.

The agency would create a new department within the Surface Mining Division to regulate aggregate production operations. The Railroad Commission estimates the bill provisions related to permitting aggregate production operations would require one Manager III (1.0 FTEs), two Engineers III (2.0 FTEs), four Hydrologists III (4.0 FTEs), one Administrative Assistants II (1.0 FTEs), two Economists (2.0 FTEs), and one Accountant (1.0 FTEs). Based on LBB analysis, the additional FTEs would have a combined fiscal year cost of \$663,915 for salaries (\$492,044) and related benefits (\$171,871).

Related to inspections and enforcement, the Railroad Commission estimates the bill provisions would require fifteen Natural Resource Specialists (15.0 FTEs). Based on LBB analysis, the additional FTEs would have a combined fiscal year cost of \$748,376 for salaries (\$554,640) and related benefits (\$193,736). Additionally, a one-time costs of \$346,500 is estimated to be needed for inspector vehicles. This analysis assumes the Railroad Commission would inspect all aggregate production operations on an annual basis.

Related to hearings and issuing orders and civil or administrative penalties, the Railroad Commission estimated the bill provisions would require two Administrative Law Judges II (2.0 FTEs), two Attorneys III (2.0 FTEs), one Legal Assistant III (1.0 FTEs), one Legal Assistant II (1.0 FTEs), and one Administrative Assistant II (2.0 FTEs). Based on LBB analysis, the additional FTEs would have a combined fiscal year cost of \$443,134 for salaries (\$328,418) and related benefits.

Additionally, it is estimated the agency would require funding for travel, other operating expenses, postage and publications, and professional services.

The Commission on Environmental Quality and the Department of Transportation indicate that duties and responsibilities associated with implementing the bill provisions could be accomplished by utilizing existing resources.

The Office of Court Administration indicated that, although the bill would create two new criminal offenses and although the bill would allow for certain court action, any new case volume driven by the bill could be absorbed by existing resources. Additionally, the Comptroller of Public Accounts indicated the amount of revenue due to fines, costs, or fees associated with the two new criminal offenses cannot be determined.

Currently, the Commission on Environmental Quality registers aggregate production operations through its water quality program and the agency has indicated there are approximately 1,000

active aggregate production operations in the state. The bill would require aggregate production operations to obtain a permit from the Railroad Commission in addition to registration with the Commission on Environmental Quality. Additionally, the Commission on Environmental Quality would be required collaborate with the Railroad Commission and political subdivisions regarding hydrologic assessments submitted by aggregate production operators with permit applications. This analysis assumes the collaboration between the Commission on Environmental Quality and the Railroad Commission related to hydrologic assessments could be accomplished by utilizing existing resources.

The Railroad Commission currently issues permits and conducts inspections of coal mining operations and uranium exploration sites, as well as conducts hearings and issues orders and civil or administrative penalties. The agency estimates it would process approximately 200 permit applications each fiscal year under the bill provisions. The bill would require the agency to set the permit application fee as nearly as possible to the actual cost of reviewing the application with minimum fee of \$5,000 for initial applications and \$500 for permit revisions. The agency anticipates it would collect \$1,100,000 each fiscal year from permit application fees set at \$5,500.

### **Technology**

There would be a technology impact related to development and enhancement of a permitting system, inspection system, and case management system. Based on LBB analysis, the fiscal impact related to these technology items is estimated to be \$671,160 in fiscal year 2020 and \$100,674 in subsequent years.

### **Local Government Impact**

The Railroad Commission will be required to notify local governments of a permit application within their jurisdiction. The local government will in turn be required to provide (in a timely manner) any right-to-enter documentation or information to the Railroad Commission that the applicant was required to obtain from the local government before beginning the applicant's aggregate production operation. This additional requirement of affected local governments could incur additional costs to the local governments.

According to the Texas Association of Counties, Hemphill County does not anticipate a fiscal impact to their county.

**Source Agencies:** 212 Office of Court Administration, Texas Judicial Council, 304  
Comptroller of Public Accounts, 455 Railroad Commission, 582  
Commission on Environmental Quality, 601 Department of Transportation

**LBB Staff:** WP, SZ, MW, TBo, GDz, LCO, AF